

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG. CHIEF JUSTICE MR. ASHOK BHUSHAN
&

THE HONOURABLE MR. JUSTICE A.M. SHAFFIQUE

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 1318 of 2015 (L)

PETITIONER(S):

S. PATHUMUTHU, W/O. LATE HANEEFA,
FATHIMA GAS SERVICE, KOVALAM JUNCTION, KOVALAM
(REPRESENTED BY HER POWER OF ATTORNEY HOLDER-
MANESH, S/O SAYED BUHARI, MANAGER,
FATHIMA GAS AGENCY, RESIDING AT MUJEEB MANZIL,
THONNAKAL, THONNAKKAL P.O., MANGALAPURAM,
THIRUVANANTHAPURAM.

BY ADVS. SRI. RENJITH B. MARAR
SRI. V.G. ARUN (NEYATTINKARA)
SMT. RESHMI JACOB

RESPONDENT(S):

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1. THE INSPECTOR GENERAL OF POLICE,
SOUTH ZONE, THIRUVANANTHAPURAM - 695 001.
 2. THE DIRECTOR GENERAL OF POLICE, THIRUVANANTHAPURAM - 695 001
 3. THE CIRCLE INSPECTOR OF POLICE,
VIZHINJAM CIRCLE, THIRUVANANTHAPURAM - 695 001.
 4. THE STATION HOUSE OFFICER,
VIZHINJAM POLICE STATION, THIRUVANANTHAPURAM - 695 001.
 5. JAYAPRAKASH, S/O. BENSON,
BETHAL VEEDU, BETHEIVILAKOM,
MUTHAKKADU DESOM, THIRUVANANTHAPURAM - 695 523.
 6. THE DEPUTY CHIEF CONTROLLER OF EXPLOSIVE
KENDRIYABHAVAN, KAKKANAD, KOCHI, ERNAKULAM - 682 050.

R1-4 BY STATE ATTORNEY SRI. P. VIJAYARAGHAVAN
R6 BY ADV. SRI. N. NAGARESH, ASSISTANT SOLICITOR GENERAL
R5 BY ADV. SRI. K.P. SANTHI
R5 BY ADV. SRI. RILGIN V. GEORGE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1 - TRUE COPY OF THE POWER OF ATTORNEY DATED 11.8.2014

EXHIBIT P2 - TRUE COPY OF THE LEASE DEED DATED 14.9.1999.

EXHIBIT P3 - TRUE COPY OF THE PLAINT IN O.S. No.1536/2011

EXHIBIT P4 - TRUE COPY OF THE ORDER DATED 23.8.2011 IN I.A. No.6658/2011 IN O.S. No.1536/2011 ON THE FILES OF HON'BLE PRINCIPAL MUNSIFF COURT, THIRUVANANTHAPURAM

EXHIBIT P5 - TRUE COPY OF THE ORDER DATED 26.9.2013 OF THE VENGANOOR GRAMA PANCHAYAT WITH TRANSLATION.

EXHIBIT P6 - TRUE COPY OF THE ORDER DATED 29.9.2014 IN I.A. No.2263/14 IN APPEAL No.1053/11 ON THE FILES OF THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

EXHIBIT P7 - TRUE COPY OF THE COMPLAINT DATED 5.11.2014 MADE TO THE 2ND RESPONDENT WITH TRANSLATION.

EXHIBIT P8 - TRUE COPY OF THE COMPLAINT DATED 5.11.2014 MADE TO THE 1ST RESPONDENT WITH TRANSLATION.

EXHIBIT P9 - TRUE COPY OF THE COMPLAINT DATED 5.11.2014 MADE TO THE 3RD RESPONDENT WITH TRANSLATION.

EXHIBIT P10 - TRUE COPY OF THE NOTICE DATED 23.12.2014 ISSUED BY THE 6TH RESPONDENT.

RESPONDENT'S EXHIBITS

NIL.

// TRUE COPY //

P.A. TO JUDGE

sou.

ASHOK BHUSHAN, Ag.C.J. & A.M. SHAFFIQUE, J.

W.P.(C) No.1318 OF 2015

Dated this the 21st day of January, 2015

JUDGMENT

Shaffique, J.

Petitioner is an authorised retail dealer of the Hindustan Petroleum's Liquid Petroleum Gas cylinders. The petitioner has taken a godown on rent for the said purpose. The petitioner has entered into a lease agreement in respect of 30 cents of immovable property comprised in resurvey No.34/3 of block 30 of the Venganoor village for a period of 15 years for commercial activity. Pursuant to the said lease deed, the petitioner constructed a godown and a security wall for the said godown. The agreement was extended as per agreement dated 23.12.2002. The fifth respondent, the land lord of the property has requested the petitioner to induct him into the partnership, which is not agreeable by the petitioner. It is contended that on 20.7.2009, the fifth respondent caused some miscreants to demolish a portion of the security wall of the gas godown. The petitioner has filed O.S. No.1536 of 2011 before the Munsiff Court

Thiruvananthapuram seeking injunction and restraining the respondent from forcibly evicting the petitioner and causing any damage. The suit was decreed on 20.12.2014. In the meantime, the fifth respondent has approached the Grama Panchayat to revoke the D& O license issued to the petitioner. An order was passed by the Panchayat revoking the licence, against which the petitioner filed appeal before the Tribunal.

2. The petitioner is now served with a notice by the Deputy Chief Controller of Explosive stating that unless security wall is constructed, licence will be cancelled. Thus when the petitioner attempted to construct the wall the fifth respondent obstructed and hence the petitioner approached the police for adequate protection to carry on the construction of compound wall. Since the police did not take any action, the writ petition was filed.

3. Though notice was ordered and served on the fifth respondent, there is no appearance.

4. Having regard to the fact that the petitioner is carrying on a commercial activity which require appropriate security measures, and to continue the business activity the construction of compound wall is absolutely necessary, if any law and order

situation or obstruction is caused by the fifth respondent, the police is bound to ensure maintenance of law and order.

In such circumstances, the writ petition is allowed as under:

Third and fourth respondents shall ensure that no law and order situation arises in the matter relating to construction or repair of security wall of the compound in which the godown of the petitioner is situated.

Sd/-
**ASHOK BHUSHAN,
ACTING CHIEF JUSTICE.**

Sd/-
**A.M. SHAFFIQUE,
JUDGE.**

sou.